

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office
Rough Draft

Appropriations Committee
November 05, 2009

[AGENCY 03]

SENATOR WIGHTMAN: Chairman Heidemann, members of the Appropriations Committee, good afternoon or perhaps I should say good night, good evening. For the record, my name is Senator John Wightman, District 36. I'm here as Chairman of the Executive Board, testifying regarding the budget of the Legislative Council. I've reviewed the Governor's recommendations. I will tell you that if this committee goes along with the Governor's recommendation it will mean significant cuts to the Legislature and it will impact the way the Legislature does its business. As the proposal now stands, we're talking about an approximately \$2.7 million reduction over the next two years. Now I don't know if they all work out this way, but ours works out almost exact amount on the reappropriation about \$1.35 million, \$1.36 million and about exactly the same amount on across-the-board cuts. So over the rest of the biennium, we would have a \$2.7 million reduction. Let me talk first about the calculation for the reduction of the Legislative Council. And I want to be clear that we have not adopted a plan as the Executive Board at this point. I have discussed with the Executive Board what some of these cuts might entail and some examples of what we might have to do to come in line. Like almost everyone else, the Council took an across-the-board reduction and a reduction in our reappropriation dollars, and as I said, that comes to about half of the total. Unlike other agencies perhaps, our reappropriation amount was in lieu of new money. It was not supplemental or additional money. I would ask that the committee consider this fact when making its decision regarding the Council's budget. Once the budget is passed, the Executive Board will meet and explore options and develop a plan. But you should know that as proposed the size of the reduction will impact our employees. There is no other way around it since approximately 80 percent of our budget is for salaries. And that's probably not a lot different than many of the other agencies. We may be a little higher, but perhaps not that much higher I think. Traditionally maybe 65 to 70 percent of a particular agency or an average agency's budget might be personnel. To put this in perspective, and I'm certainly not proposing this as a recommendation, but just so that you might understand the amount of the

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budget cut, if we were to meet the budget reductions by a single staff classification reduction, we would have to eliminate all of the administrative assistant positions effective January 1, 2010, because that would come to about \$50,000 per employee times 50, 49 employees, which would be approximately \$2.5 million. I'm certainly not proposing this. I'm just using this to demonstrate about what the size of the cut might be if you looked at it only from that standpoint. As this example demonstrates, the cuts will be steep and will have a dramatic impact. I want to give you a few of the options that the Executive Board could consider, and we've talked about the possibility of salary rollbacks that I think it's 2.9 percent effective this year salary increase for which they have been paid several months of that. And I think we would be talking if we did that, roll it back effective January 1 of this year and then there would be a 2.5 percent next year. If we were to take those cuts and roll it back for the balance of the 2009-2010 fiscal year and take the 2010 cuts, that would come to about \$989,000. So that would somewhat...probably handle between 35 and 40 percent of the cuts. Now we haven't done that. That's just one of the matters that could be considered. Reduce staffing is a possibility. Furlough is certainly a possibility and some calculations were done on that. We have about 250 employees in the Legislative Council. That will surprise a lot of you, but the Office of the Ombudsman, for example, is under our jurisdiction; Legislative Research; of course, all of legislative committee counsels; and, of course, we have three for every office so there's 150 if you just count the--approximately that--49 state senators and an administrative assistant and a legislative aide. So about 150 is made up of that. Another thing that would be probably considered is lower per diem amounts for senators. Furloughs, we made a calculation that if each employee--now I don't know if they counted the legislators--I don't think we're going to gain much if we furloughed the legislators for a day (laugh) but maybe that was just the other, but it's \$51,000, I think, if every...is that just for the other employees and not the legislators I assume, so about 200, we'd come to about \$51,000 a day. So if we took five days of furloughs, that would be \$250,000. I'm just trying to put these in perspective of how we might reach the figure. Lower per diem amounts for senators, as I said, we certainly would consider. And to give you a little background on this, we've been getting I think \$109. It was

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scheduled to go to \$116 and there's probably some odd cents on that so that would be \$7. If we took another 10 percent cut or \$10-a-day cut, we'd be looking at about \$16 a day. And I think the figure was about \$48,000 total on what we could gain by...so it wouldn't be a very big part, as you can see, of \$2.5 million. Actually, it's \$2.7 million so it would be under 2 percent of the total that we would need to cut. Again, I'm not in a position to tell you right now what specific cuts would be made. It will depend upon what the Legislature ultimately decides and, in turn, the plan that the Executive Board adopts. I will be happy to answer any questions you might have or at least with maybe the aid of some assistants here. The division directors are here to answer any questions you have about their respective budgets. So with that, I'd invite any questions. [AGENCY 03]

SENATOR HEIDEMANN: I appreciate the fact you went through and let us know, you know, let us know what was going to happen if this is what takes place. Do you agree or disagree with what the Governor proposed for Legislative Council? [AGENCY 03]

SENATOR WIGHTMAN: You know, I'm not here, I don't think...I think we will have to wait probably until I hear back from the Executive Board. I'm not here right now to say that we could take those cuts. I think they're very steep cuts and I think perhaps our reappropriation figure is higher accordingly than many other agencies. Can we live within it? Probably we can, but if you're going to be looking at the fact that you're going to be cutting staff, I think there will have to be some staff cuts to get there. Even if you took all of the others, and I gave you \$989,000; \$48,000 I think in the per diem; maybe \$250,000, maybe a little more than that in furloughs, I think there's also some cash available that would probably be available at the end of the...around \$300,000 as I recall. But I think there have to be some staff cuts to get there. Now how deep those staff cuts would have to go, obviously we're not talking about eliminating every administrative assistant position. But I guess we can look at where those cuts might come from. When you consider that 150 of the 250 employees are contained within the legislative offices, there aren't a lot of positions to cut. We maybe have 50 left and that includes a number of the Clerk's Office and a number of Fiscal Office, a whole lot of

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staff members that aren't going to be easy to cut; legislative committee counsels.
[AGENCY 03]

SENATOR HEIDEMANN: And I didn't ask that question to be picking on you by any means. But as we're getting through almost one day, we have another three days of hearings left to go. Of the people that came through here and agreed with what the Governor's budget was, when we get this all done, I'd say we've got about \$30 million worth of cuts that people agree with; we've got \$300 million that people don't agree with and say that they can't live with. And it's going to put us in a heck of a spot what we're going to do and not do. And I'm asking you this. I'm throwing that out to you because you sit on Appropriations. [AGENCY 03]

SENATOR WIGHTMAN: Senator Heidemann, I fully appreciate it. At the same time, I think we do have to look at the fact that our 250 employees and ourselves represent one entire branch of government. And I think that is due some consideration. But I'm not saying we can or can't live within the cuts. I think it will be very difficult to live within the cuts and there will be personnel cuts. [AGENCY 03]

SENATOR HEIDEMANN: Senator Mello. [AGENCY 03]

SENATOR MELLO: Senator Wightman, thank you for your testimony. And I have a few questions here just to kind of maybe kind of see where your perspective is, at least in regards to Chairman of the Exec Board and Chairman essentially of the Legislative Council. I mean you've just said...and I'm a firm believer of this that words matter. And the Governor refers to his budget as cutting all agencies, but what I think you just said, which I would agree with, the Legislature is not an agency, it's one of three coequal branches of government, which makes us a little bit more different than the 25 code agencies that directly report to the Governor. Do you know in regards to the general size of the number of employees that our coequal branch of government has in comparison to the executive branch or the judicial branch? [AGENCY 03]

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SENATOR WIGHTMAN: Probably no more than I heard today, I'm sure we're much, much smaller than the judicial branch, and we probably are somewhat larger than the executive branch. But I can't give you those figures. [AGENCY 03]

SENATOR MELLO: Well, I do. I asked a little research and I know it's a little dated, but my research shows that the legislative branch employs 322 employees; the judicial branch employs 1,145 employees; and the executive branch, code agencies only, employs 14,576 employees. [AGENCY 03]

SENATOR WIGHTMAN: Well, if you're going to count everybody in the executive branch, I was just looking at primarily the Governor's Office. But... [AGENCY 03]

SENATOR MELLO: But you would agree that code agencies are...because they report to the executive branch they are part of the executive branch, since they do not report... [AGENCY 03]

SENATOR WIGHTMAN: Right, I don't know that all of those are classified as code agencies, but 14,000, I think, is approximately the number of all employees in the state of Nebraska and that might include the legislative branch as well and the courts. And then there's about that many more at the University of Nebraska, I think, so. [AGENCY 03]

SENATOR MELLO: Uh-huh. Do you see...do you see some of the cuts you discussed today to our...one of our three coequal branches of government impeding at all our ability to be a check and balance on the other two branches of government, particularly knowing some of the possibilities or potentials you've just laid in front of the committee, such as eliminating possibly up to almost, you know, 20 percent of our staff possibly, within our branch of government? [AGENCY 03]

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SENATOR WIGHTMAN: Well, if we took all the cuts there, Senator Mello, that might be true. I don't think anybody is suggesting that we take all of those cuts. I was doing that more for illustration purposes... [AGENCY 03]

SENATOR MELLO: Uh-huh. [AGENCY 03]

SENATOR WIGHTMAN: ...as to what the size of the cuts would be. Whether we would be impeding, I think we would be maybe less efficient as a check and balance part of our government but I don't know whether it would impede it. [AGENCY 03]

SENATOR MELLO: Do you know what would be an adequate...I asked the same question to the other coequal branch of government, the judicial branch. What percentage of cuts do you think that the legislative branch of government can absorb while maintaining its appropriate level of checks and balances? [AGENCY 03]

SENATOR WIGHTMAN: I don't know if I could give you a figure for that right now. I can tell you about what this cut would amount to. [AGENCY 03]

SENATOR MELLO: Uh-huh. [AGENCY 03]

SENATOR WIGHTMAN: We're about \$20 million to \$21 million I think annual amount, so we'd be looking at \$30 million if we took the cuts over a year and a half period, and we're talking about \$2.7 million, so we're about 9 percent. I think that perhaps our cut is more in the reappropriation figure and I think we were leaner in our budget to start with on the reappropriation figure as to how we were going to use that than some of the other branches...or some of the other agencies. [AGENCY 03]

SENATOR MELLO: One last question, Chairman. According to the job vacancy report that was issued to the Legislature by the Department of Administrative Services, that answers directly to the Governor, it says that the Legislative Council has 14 vacant

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positions to the tune of \$296,000. Is that correct? [AGENCY 03]

SENATOR WIGHTMAN: My opinion, and I'll let the staff answer that, but my opinion is that we probably don't have 14 that we're trying to fill at the present time. And I'll let... [AGENCY 03]

JANICE SATRA: Senator, my name is Janice Satra, S-a-t-r-a, for the record. We are looking at an October report, 14 vacancies; 3 of those have been filled, 3 are still vacant. The rest are in the Clerk's Office. They're primarily session employees, like pages, Bill Room, so they, you know, because of the timing of the report they aren't currently filled. [AGENCY 03]

SENATOR MELLO: Okay. [AGENCY 03]

SENATOR WIGHTMAN: We have a lot of employees, Senator Mello, that are part-time, and you know that on the pages. [AGENCY 03]

SENATOR MELLO: Uh-huh. [AGENCY 03]

SENATOR WIGHTMAN: And I don't know how many hours on an average they work per year, but we have about 50, no, we have how many, 40 pages? [AGENCY 03]

JANICE SATRA: Pages. [AGENCY 03]

(UNKNOWN MALE): 30. [AGENCY 03]

SENATOR WIGHTMAN: 30. I should know that. [AGENCY 03]

SENATOR MELLO: So the report is wrong in the sense that we have 3 vacancies, not 14. That would be... [AGENCY 03]

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SENATOR WIGHTMAN: Right, three have been filled, as I understand it from...
[AGENCY 03]

SENATOR MELLO: Okay. All right. Thank you, Chairman. [AGENCY 03]

SENATOR HEIDEMANN: Senator Conrad. [AGENCY 03]

SENATOR CONRAD: Thank you, Senator Wightman. And in the spirit of fairness and shared sacrifice, can you tell me, do you know how many employees of the legislative branch make over \$100,000 a year? [AGENCY 03]

SENATOR WIGHTMAN: I certainly can't tell you that. Perhaps somebody can.
[AGENCY 03]

SENATOR CONRAD: Ball park estimate. [AGENCY 03]

(UNKNOWN FEMALE): I think about five. [AGENCY 03]

SENATOR CONRAD: Five out of maybe two hundred and fifty, primarily, I'm guessing, longtime employees. [AGENCY 03]

SENATOR WIGHTMAN: And no state senator makes that, I'm sure. (Laugh) [AGENCY 03]

SENATOR CONRAD: And that was my next point to clarify for the record. In the spirit of shared sacrifice, we obviously make \$12,000 a year, set by the constitution, so that is difficult, if not impossible, to change in the context of a special session. Is that correct?
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SENATOR WIGHTMAN: That is correct and probably there is no way, and we've discussed this in committee, that there is any way there could be a reduction in that because it is set constitutionally. Now as a practical matter, the only place we could take a cut would be in the per diem, and I suggested that possibility. [AGENCY 03]

SENATOR CONRAD: Sure. And also for the record, not all senators make over \$100 a day in their per diem. Some make less than, what, \$40, is that right, \$39? Yeah, thank you. [AGENCY 03]

SENATOR HEIDEMANN: Do you know how much we spend in travel? [AGENCY 03]

SENATOR WIGHTMAN: And that's certainly an area we could look at. I don't know the figures, but I think that could be looked at as a cut, a possible cut next year in limiting the number of out-of-state trips. Other things, and I didn't mention this, we could look at eliminating one of the two groups that we belong to as a Legislature, Council of State Governments, the National Council of State Legislatures. They are fairly substantial expenses. I don't know that it's a good method of reaching our goal because I think, particularly with term limits, we, as young senators--not young, inexperienced senators--we have a lot to gain--some of you are young--have a lot to gain by attending these, but. [AGENCY 03]

JANICE SATRA: That's in state and outstate though. [AGENCY 03]

SENATOR WIGHTMAN: In state and outstate total travel expense at \$761,442, so it's not a small figure. [AGENCY 03]

SENATOR HEIDEMANN: I think out Clerk wants to say something, or are you just... [AGENCY 03]

PATRICK O'DONNELL: Well, I hesitate to correct the Chairman, but of that number,...

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[AGENCY 03]

SENATOR WIGHTMAN: Feel free. [AGENCY 03]

PATRICK O'DONNELL: ...that's also your per diem money. [AGENCY 03]

SENATOR WIGHTMAN: Oh, okay. [AGENCY 03]

SENATOR HEIDEMANN: I was going to think there was more into that. [AGENCY 03]

PATRICK O'DONNELL: There's probably... [AGENCY 03]

JANICE SATRA: That's the in state (inaudible). [AGENCY 03]

PATRICK O'DONNELL: Yes. Yeah. So I just...and that's \$500,000 of that \$761,000.
[AGENCY 03]

JANICE SATRA: Right. [AGENCY 03]

SENATOR WIGHTMAN: Oh, so it's much smaller than that when we take that out. Is all
of the per diem in that or just the travel? [AGENCY 03]

PATRICK O'DONNELL: No, your per diem dollar amount (inaudible). [AGENCY 03]

SENATOR WIGHTMAN: Is in the \$761,000. [AGENCY 03]

PATRICK O'DONNELL: Yes. [AGENCY 03]

SENATOR WIGHTMAN: Okay. [AGENCY 03]

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SENATOR HEIDEMANN: Senator Nordquist. [AGENCY 03]

SENATOR NORDQUIST: Just where the Clerk of the Legislature Cash Fund and the Nebraska Legislative Shared Info System Cash Fund, can you give me a little background on those two? [AGENCY 03]

SENATOR WIGHTMAN: I'll let the Clerk answer that, if he will. [AGENCY 03]

PATRICK O'DONNELL: Sure. Senator, the Clerk's Cash Fund is essentially the lobby registration process. State law requires lobbyists to file quarterly reports, register with our office. Registration fees flow into a cash fund. Money emanates from that cash fund to pay for our...we have a person who does lobby registration. The other cash fund is primarily involved with statute book sales, so as, you know, new reissues come out, lawyers buy them and that money is deposited into that cash fund. [AGENCY 03]

SENATOR NORDQUIST: What are the current fees charged to lobbyists? You have any... [AGENCY 03]

PATRICK O'DONNELL: A hundred bucks. A hundred bucks a year. And nonprofits, I think it's \$15 or...but the \$100 is for-profits. [AGENCY 03]

SENATOR HEIDEMANN: When was the last time that was raised? [AGENCY 03]

PATRICK O'DONNELL: Not...maybe 8-10 years ago. [AGENCY 03]

SENATOR HEIDEMANN: Okay. Senator Conrad. [AGENCY 03]

SENATOR CONRAD: I have one follow-up question, Senator Wightman or Mr. Clerk, in regards to the travel expense that we had just discussed. And I understand that it may group some other expenses in it and that's why that number appears inflated. But has

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the Executive Board of the Legislature looked at the possibility of, for example, reducing travel in the midst of...or for the purpose of interim hearings and, rather, moving to having all interim hearings being conducted here at the Capitol or through telephonic means or otherwise? I know that there's a lot of travel during the interim in relation to holding interim hearings around the state and how that expense...has that been specifically allocated and could that be reduced? Has that been discussed? [AGENCY 03]

SENATOR WIGHTMAN: Senator Conrad, that issue has been raised, but it has not been discussed at the committee level at this point. [AGENCY 03]

SENATOR CONRAD: Okay. [AGENCY 03]

SENATOR WIGHTMAN: It's probably an item that we will discuss but... [AGENCY 03]

SENATOR CONRAD: Okay. [AGENCY 03]

SENATOR WIGHTMAN: ...but we haven't discussed it yet. [AGENCY 03]

SENATOR CONRAD: Okay. Thank you. [AGENCY 03]

SENATOR HEIDEMANN: Are there any other questions? Senator Mello has one, excuse me. [AGENCY 03]

SENATOR MELLO: One final question, Senator Wightman. [AGENCY 03]

SENATOR WIGHTMAN: Is this the final, final question? [AGENCY 03]

SENATOR MELLO: This is the final question (laughter) for you for right now. Do you think in regard to some of the possible cuts you discussed, do you think that a reduction

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in services to the senators within the third coequal branch of government, do you think a reduction in services would have an impact in regards to senators' abilities to be able to use information or be able to gather information that's not coming from outside interests, such as the lobbyists or people who have been here or people who have worked in state government for awhile, maybe the executive branch? Do you think that would raise any kind of concern at all in regards to the level of cuts the Governor has recommended? [AGENCY 03]

SENATOR WIGHTMAN: Well, and certainly I think some of the things I've suggested, including the reduction of staff, if we were to reduce our administrative assistants, not only reduce them but eliminate them, that certainly would have some impact, I think, on our ability to respond both to questions asked generally and those asked by constituents. It would be a major cut. I don't think we're suggesting doing that but I guess it's one of the things on the table. [AGENCY 03]

SENATOR MELLO: I was looking less maybe at like our...like at senators' administrative staff and more of the resources of the Legislative Council. You know, you can go through all of them, but the fact is that the Legislative Council has built up a history of knowledge that provides this coequal branch of government information that is nonpartisan in its fashion that otherwise, if that knowledge base or that infrastructure is...deteriorates or is reduced, that senators are left then only to get that information from either the executive branch or special interests, such as lobbyists or other organizations outside of government. [AGENCY 03]

SENATOR WIGHTMAN: Certainly if those staff cuts took place in divisions, such as Legislative Research, Performance Audit, I think there could be a substantial reduction, particularly when we're looking at Legislative Research having a major role in the next year and a half as we go through the census. So obviously, it would take either some outside sources or a whole lot more work on the part of senators and senators' staff... [AGENCY 03]

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SENATOR MELLO: Uh-huh. [AGENCY 03]

SENATOR WIGHTMAN: ...if we cut them. So certainly some of these things would have an impact. [AGENCY 03]

SENATOR MELLO: Okay. Thank you. [AGENCY 03]

SENATOR WIGHTMAN: That was the final, final question? [AGENCY 03]

SENATOR MELLO: That was the final question. [AGENCY 03]

SENATOR HEIDEMANN: Not for sure from everybody, but it looks that way. [AGENCY 03]

SENATOR WIGHTMAN: Thank you. [AGENCY 03]

SENATOR HEIDEMANN: Thank you, Senator Wightman. Is anyone else wishing to testify on Agency 3, the Legislative Council? Seeing none, we will close the public hearing on Agency 3, open up the public hearing on Agency 46, the Department of Corrections. Welcome. [AGENCY 03]